

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. 13-0266
)
Hawaiian Airlines, Inc.,)
)
Respondent.) Consent Decision and
) Order

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondent willfully violated the Act and the regulations issued pursuant to the Act (9 C.F.R. §§ 1.1-4.11). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondent admits the jurisdictional allegations in paragraph I of the complaint, and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations of the complaint, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding as well as all remaining alleged violations which may have occurred on or before April 30, 2013, and for such purposes only, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

(a) Hawaiian Airlines, Inc., hereinafter referred to as respondent, is a corporation whose mailing address is 3375 Koapaka Street, Suite G350, Honolulu, Hawaii 96819, and

respondent's registered agent for service is Hoyt Zia whose mailing address is 3375 Koapaka Street, Suite G350, Honolulu, Hawaii 96819.

(b) The respondent, at all times material herein, was registered and operating as a class T carrier, Certificate #95-T-0001, as defined in the Act and the regulations.

Conclusions

The respondent has admitted the jurisdictional allegations but does not admit any of the substantive allegations in the complaint nor, in executing this decision, does it admit that any of its action was in violation of the Act. The parties having agreed to the entry of this decision, such decision will be entered.

Order

1. Respondent, its agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the regulations and standards issued thereunder, and in particular, shall cease and desist from:

(a) Failing to ensure that primary enclosures used to transport live dogs and cats are strong enough to withstand the normal rigors of transportation, and contain the animal securely and comfortably;

(b) Failing to handle primary enclosures for animals accepted for transport in commerce as required.

(c) Failing to provide adequate ventilation in primary enclosures for dogs during transport or delivery for transport in commerce;

(d) Failing to provide primary enclosures for dogs transported or delivered for transport in commerce that are large enough to ensure that a dog contained in the primary

enclosure has enough space to turn about normally while standing, to stand and sit erect, and to lie in a natural position;

(e) Transporting dogs that are obviously ill, injured, or in physical distress;

(f) Failing to handle dogs as expeditiously and carefully as possible in a manner that did not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, and unnecessary discomfort; and

(g) Failing to take appropriate measures to alleviate the impact of high temperatures that threaten dogs' well-being.

2. Respondent is assessed a civil penalty of \$17,000.00 which shall be paid by certified check or money order made payable to the Treasurer of the United States immediately following the effective date of this order.

The provisions of this order shall become effective on the first day after service of this decision on the respondent.

Copies of this decision shall be served upon the parties.

[REDACTED]
Hawaiian Airlines, Inc.
Respondent

[REDACTED]
Buren W. Kidd
Attorney for Complainant

Done at Washington, D.C.
this 17 day of September, 2013

[REDACTED]
Administrative Law Judge